

8535-0004/mmc

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
MELINDA THEW COOPER,

Plaintiff,

-against-

LARRY THEW; et al.,

Defendants
-----X

**REPLY TO
COUNTERCLAIMS**

Civ No: 04 CV 8928 (CM)

Plaintiff Melinda Thew Cooper, by her attorneys, McCabe & Mack LLP, replying to counterclaims of Defendants Larry Thew, John Thew, Michele Thew and Taconic 82, Inc. herein, alleges upon information and belief as follows:

**REPLY TO FIRST COUNTERCLAIM
BY LARRY THEW AND JOHN THEW,
AS CO-EXECUTORS OF THE ESTATE OF RICHARD THEW**

1. Plaintiff denies those allegations contained in paragraphs numbered “210”, “211”, “212” and “214” of the Counterclaim.

**REPLY TO SECOND COUNTERCLAIM
BY JOHN THEW AND LARRY THEW**

2. Plaintiff denies those allegations contained in paragraphs numbered “217” and “218” of the Counterclaim.

**REPLY TO THIRD COUNTERCLAIM
BY JOHN THEW AND LARRY THEW**

3. Plaintiff denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs numbered “219” and “220” of the Counterclaim.

4. Plaintiff denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph numbered “221” of the Counterclaim, and refers the Court to the policy alleged for the terms thereof.

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5. Plaintiff denies those allegations contained in paragraphs numbered “222” and “223” of the Counterclaim.

**REPLY TO FOURTH COUNTERCLAIM
BY JOHN THEW AND LARRY THEW**

6. Plaintiff denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs numbered “225”, “226” and “227” of the Counterclaim.

7. Plaintiff denies those allegations contained in paragraph numbered “228” of the Counterclaim.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

8. Each counterclaim is barred by the applicable statute of limitations.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

9. Each counterclaim is barred by the applicable statute of frauds.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

10. The counterclaiming defendants lack standing to prosecute some or all of the counterclaims.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

11. To the extent that any of the counterclaims seek equitable relief, counterclaiming defendants are guilty of laches.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

12. By virtue of the conduct of defendants and their predecessors, Richard Thew and/or Gerald Thew, counterclaiming defendants have waived any right to assert any rights set forth in the counterclaims.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

13. By virtue of the conduct of defendants and their predecessors, Richard Thew

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and/or Gerald Thew, counterclaiming defendants are estopped from pursuing the asserted counterclaims.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

14. By virtue of the conduct of defendants and their predecessors, Richard Thew and/or Gerald Thew, counterclaiming defendants lack clean hands and are therefore barred from asserting the counterclaims set forth in their Counterclaim.

AS AND FOR A EIGHTH AFFIRMATIVE DEFENSE

15. The counterclaims fail to set forth claims upon which relief may be granted.

WHEREFORE, Plaintiff demands that all of the counterclaims be dismissed with costs and disbursements with prejudice, and for such and other relief as this Court deems just and proper.

DATED: Poughkeepsie, New York
May 11, 2007

Yours, etc.

McCABE & MACK LLP

By: /s/ Richard R. DuVall
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